

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KARINA REYES SOLIS,
Plaintiff,

v.

INS,

Defendant.

No. CIV.S-05-00084 GEB DAD PS

ORDER

_____ /
This matter came before the court on May 13, 2005, at 11:00 a.m. for a Status (Pretrial Scheduling) Conference. There was no appearance on behalf of plaintiff.¹ Assistant United States Attorney Audrey Hemesath appeared specially on behalf of defendant.

As discussed on the record and in open court during the status conference, plaintiff initiated this action on January 13, 2005, by filing a document styled as a "Petition for De Novo Immigration Review." Liberally construed, that document indicates

¹ Plaintiff's husband appeared at the hearing and was permitted to speak.

1 that plaintiff is seeking judicial review of a denial of an
2 application for cancellation of removal by the Immigration Court in
3 San Francisco. However, 8 U.S.C. § 1252(b)(2) provides that such a
4 petition "shall be filed with the court of appeals for the judicial
5 circuit in which the immigration judge completed the proceedings."
6 See Maravilla Maravilla v. Ashcroft, 381 F.3d 855, 856 (9th Cir.
7 2004) (confirming the court of appeals jurisdiction to review a
8 decision of the Board of Immigration Appeals denying a motion to
9 reopen applications for cancellation of removal which was based on
10 ineffective assistance of counsel claim); Tinoco v. Ridge, 359 F.
11 Supp. 2d 1042, 1047 (S.D. Cal. 2005) ("Today, when an alien challenges
12 an order of removal, review generally begins in the federal courts of
13 appeal, through [Immigration and Nationality Act] § 242's direct
14 review.").

15 Accordingly, IT IS HEREBY ORDERED that:

16 1. Plaintiff shall show cause in writing within twenty
17 (20) days of the date this order is filed why this case should not be
18 dismissed for lack of subject matter jurisdiction. See Fed. R. Civ.
19 P. 12(h)(3) ("Whenever it appears by suggestion of the parties or
20 otherwise that the court lacks jurisdiction of the subject matter,
21 the court shall dismiss the action."). Failure to timely file the
22 required writing will result in a recommendation of dismissal.

23 2. The Clerk of the Court is directed to serve a copy of
24 this order upon plaintiff Karina Reyes Solis at the following two
25 addresses:

26 /////

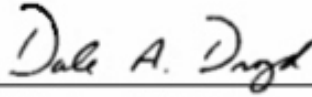
1 5175 Euler Way
2 Sacramento, California 95823

3 5827 Witt Court
4 Elk Grove, California 95757.

5 3. The Clerk also is directed to deliver a copy of this
6 order to the attention of Audrey Hemesath at the Office of the United
7 States Attorney for the Eastern District of California.

8 IT IS SO ORDERED.

9 DATED: May 20, 2005.

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11 DALE A. DROZD
12 UNITED STATES MAGISTRATE JUDGE

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